

Serial No.: 10/716,563
Docket No.: 102-1011
Amendment After Final dated: November 16, 2007
Reply to the Final Office Action of September 18, 2007

REMARKS

Introduction

Applicant notes with appreciation the Examiner's indication that claims 17-20, 29 and 30 would be allowable if rewritten in independent form.

Upon entry of the foregoing amendment, claims 1-4, 6-14, 16-23 and 26-30 are pending in the application. Claims 1, 7-8, 16, 18, 21, 23, and 30 have been amended. Claim 17 has been cancelled. No new matter is being presented. In view of the following remarks, reconsideration and allowance of all the pending claims are requested.

Entry of this Amendment After Final is proper under 37 C.F.R. §1.116 because the claim amendments: (a) place this application in condition for allowance (for the reasons discussed herein), (b) do not raise any new issues requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution as indicated in the Final Office Action), (c) present the rejected claims in better form for consideration on appeal (should an appeal be necessary), and (d) are necessary and were not earlier presented because they are made in response to arguments raised in the Final Office Action.

Accordingly, for at least the reasons discussed above, entry of this Amendment is respectfully requested.

Objections

The Examiner has objected to claims 7-14, 16-20, 22 and 30 due to informalities. Accordingly, claims 7-14, 16-20, 22, and 30 have been amended to address the Examiner's concerns, and all dependency issues and antecedent basis problems have been remedied. Therefore, withdrawal of the above objections is earnestly solicited.

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Rejection under 35 USC §102

Claims 1, 6-14, 16, 21-23 and 26-28 have been rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent No. JP 04246670 to Tamai. Applicants respectfully request reconsideration and withdrawal of this rejection for at least the following reasons.

Independent Claim 1

As per the Examiner's recommendation, independent claim 1 has been amended to include the limitations of dependent claim 30. Therefore, as admitted by the Examiner, Tamai does not teach or disclose, among other things, "a cleaning unit disposed at a position opposite to a nip with respect to a rotating axis of the toner supplying unit to remove from the toner supplying unit the toner, wherein the cleaning unit is formed as a cleaning roller to be in pressing contact with the toner supplying unit with a predetermined pressure to form a second nip with the toner supplying unit," as presently recited in independent claim 1 of Applicant's invention.

It is well established that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "The elements must be arranged as required by the claim..." In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Accordingly, since Tamai does not teach or disclose all of the elements set forth in independent claim 1, this claim is patentably distinguishable from Tamai. Thus, Tamai cannot be properly used to reject independent claim 1 under 35 U.S.C. §102(b) as submitted in the Office action mailed on September 18, 2007, and withdrawal of this rejection and allowance of this claim are respectfully solicited.

Independent Claim 7

As per the Examiner's recommendation, independent claim 7 has been amended to include the limitations of dependent claim 17. Therefore, as admitted by the Examiner, Tamai does not teach or disclose, among other things, "a cleaning unit is disposed to be spaced-apart

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from the surface of the cylinder by a predetermined distance to remove the toner from the toner supplying unit by shaking the fur of the cylinder, then cleaning unit comprising a cylindrical member having an outer surface disposed to contact the fur of the toner supplying unit," as presently recited in independent claim 7 of Applicant's invention.

Accordingly, since Tamai does not teach or disclose all of the elements set forth in independent claim 7, this claim is patentably distinguishable from Tamai. Thus, Tamai cannot be properly used to reject independent claim 7 under 35 U.S.C. §102(b) as submitted in the Office action mailed on September 18, 2007, and withdrawal of this rejection and allowance of this claim are respectfully solicited.

Independent Claims 21 and 23

Regarding independent claims 21 and 23, the Examiner alleges that "a flicker or a cleaning unit 29 disposed at a stationary position as a distance from toner supplying unit 28" reads on Applicant's "cleaning unit," as recited in independent claims 21 and 23 of Applicant's invention. However, claims 21 and 23 have been amended to further establish that Applicant's cleaning unit is immobile. In contrast, Tamai is limited to a flicker 9 which can "freely move around a support pin 11." See Abstract of Tamai. More specifically, the flicker 9 moves in relation to Tamai's fur brush, and "flicks" the excess toner from the fur brush. It is respectfully submitted that a freely moveable flicker is not the same as a cleaning unit which is stationary and immobile.

Therefore, since the flicker 29, as relied upon by the Examiner, is freely moveable, Tamai does not teach or disclose, among other things, "the cleaning unit is stationary and immobile," and "a stationary and immobile cleaning unit to shake the fur of the toner supplying unit to remove the toner from the toner supplying unit," as presently recited in independent claims 21 and 23 of Applicant's invention, respectively.

Accordingly, since Tamai does not teach or suggest all of the elements set forth in independent claims 21 and 23 as presently recited, these claims are patentably distinguishable from Tamai. Thus, Tamai cannot be properly used to reject independent claims 21 and 23 under 35 U.S.C. §103(a) as submitted in the Office action mailed on September 18, 2007, and

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withdrawal of this rejection and allowance of these claims are respectfully solicited.

Dependent Claims 6, 8-14, 16, 22 and 26-28

With respect to claims 6, 8-14, 16, 22 and 26-28, it is respectfully submitted that for at least the reason that claims 6, 8-14, 16, 22 and 26-28 depend from independent claims 1, 7, and 22, respectively, which are patentably distinguishable from Tamai for at least the reasons provided above, and therefore contain each of the features as recited in independent claims 1, 7, and 22, dependent claims 6, 8-14, 16, 22 and 26-28 are also patentably distinguishable from Tamai, and withdrawal of this rejection and allowance of these claims are respectfully solicited.

Rejection under 35 USC §103

Claims 2-4 have been rejected under 35 U.S.C. §103(a) as being anticipated by Tamai in view of U.S. Patent No. 6,381,434 to Yamamoto. Applicants traverse this rejection for at least the following reasons.

It is respectfully submitted that claims 2-4 depend from allowable independent claim 1, and therefore include each of the features of independent claim 1. The Examiner admits on page 3 of the Office Action dated September 18, 2007, that Tamai does not disclose "the material of the fur brush and the size of the fur." Therefore, the Examiner relies on Yamamoto to allegedly teach or suggest the features that Tamai lacks. See pages 3-4 of the Office Action dated September 18, 2007.

However, Applicants respectfully submit that even if Yamamoto does disclose "the material of the fur brush and the size of the fur," as alleged by the Examiner, Yamamoto fails to teach or suggest, among other things, "a cleaning unit disposed at a position opposite to a nip with respect to a rotating axis of the toner supplying unit to remove from the toner supplying unit the toner, wherein the cleaning unit is formed as a cleaning roller to be in pressing contact with the toner supplying unit with a predetermined pressure to form a second nip with the toner supplying unit," as presently recited in independent claim 1 of Applicant's invention. Therefore, since Yamamoto does not remedy the deficiencies of Tamai, even the combination of Tamai and Yamamoto does not disclose all the elements as recited in independent claim 1, from which

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claims 2-4 depend.

Accordingly, Applicants respectfully submit that the Examiner has not met the burden of establishing a *prima facie* case of obviousness as set forth in MPEP § 2143.03, portions of which are cited as follows: "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)."

As set forth in the discussion of dependent claims 2-4 (above), since neither Tamaj nor Yamamoto, separately or in combination, teach or suggest all of the elements as recited in dependent claims 2-4, these documents cannot be properly used to reject dependent claims 2-4 under 35 U.S.C. §103(a) as submitted in the Office action mailed on September 18, 2007, and withdrawal of this rejection and allowance of these claims are respectfully solicited.

Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.


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If any further fees are required in connection with the filing of this amendment, please charge the same to our Deposit Account No. 502827.

Respectfully submitted,

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